

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EMIL JOSEPH LONG NECK,

Defendant.

**CR-03-28-GF-BMM-01
CR 14-09-CR-BMM-01**

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
SUPERVISED RELEASE**

United States Magistrate Judge John Johnston issued Finding and Recommendations in this matter on July 29, 2015. (*United States v. Emil Joseph Long Neck*, 4:03-cr-00028-BMM-1, Doc. 109). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review the Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court conducted a revocation hearing on July 27, 2015. (Doc. 106).

Long Neck admitted to having violated special condition 5 of his supervised release by consuming alcohol. (Doc. 109). Judge Johnston recommends that this Court revoke Long Neck's supervised release and commit Long Neck to the custody of the United States Bureau of Prisons for six months. *Id.* The term of incarceration should run concurrently in 4:03-CR-00028-BMM-1 and 4:14-CR-00009-BMM-1.

Long Neck's criminal history category is IV, the current offense is a Grade C violation, and the underlying offenses are Class C felonies. For each cause number, Long Neck could be incarcerated for up to 24 months. He could be ordered to remain on supervised release for 15 months, less any custody time imposed. The United States Sentencing Guidelines call for six to 12 months in custody.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. Long Neck's violation of his supervised release is a serious breach of the Court's trust. A sentence of six (6) months imprisonment to run concurrently in 4:03-CR-00028-BMM-1 and 4:14-CR-00009-BMM-1, is sufficient, but not greater than necessary.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 109) is ADOPTED IN FULL. **IT IS FURTHER**

ORDERED that Defendant Emil Joseph Long Neck shall be sentenced to **six (6)** **months imprisonment** to run concurrently in in 4:03-CR-00028-BMM-1 and 4:14-CR-00009-BMM-1.

DATED this 14th day of August, 2015.

A handwritten signature in blue ink that reads "Brian Morris". The signature is fluid and cursive, with "Brian" on the first line and "Morris" on the second line.

Brian Morris
United States District Court Judge